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**Minutes**  
**WASHINGTON CITY PLANNING COMMISSION**  
**January 2, 2014**

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Present: Commissioner Schofield, Commissioner Smith, Commissioner Shepherd, Commissioner Williams, Commissioner Papa, Attorney Jeff Starkey, Councilman Staheli, Drew Ellerman, Lester Dalton, Kathy Spring, Abraham Thionbiano, Neil Walter, Paul Jensen, Robert Jensen, Michael Draper, John Poutinen, Alisann Poutinen, Eldon Larkin, Donna Larkin, John Anderson, Judith Anderson, Richard Sims, Barbara Templeton, Bryon Thiriot, Steven Sorensen, Karen Sorensen, Jan Helterling, Janette Helterling, Ron Kenyon, Ardath Kenyon, Rachel Henderson, Ed Reber, Samnantha Sadlier, Todd Graff, Dan Dentiar, Elaine Kirkham, Kim Jones, Len Trujillo, Susan Trujillo, Rodney Kingham, Dixie Kingham, Sharon Spencer, Cliff Whyte, Marilyn Whyte, Jim Stuercke, Carolyn Stuercke, Brad Argyle, Barbara Parker, Harlan Bass, Barbara Argyle, Ranae Argyle, David Argyle, William Wilcoxson, Sandra Wilcoxson, Randy Lamoreaux, JoAnne Lamoreaux, Salley Johnson, Gary Johnson, Norman Thomas, Cheryl Thomas, Karen Dint, Jiu Turner, Jason Valez, Gary Davis, Elsie Davis, Dale Murauph, Joseph Fiscina, Gregg Smith.

Meeting called to order: 5:30 PM

Invocation: Commissioner Smith

Pledge of Allegiance: Commissioner Schofield

1. APPROVAL OF AGENDA

A. Approval of the agenda for January 2, 2014.

Commissioner Smith motioned to approve the agenda for January 2, 2014.

Commissioner Williams seconded the motion.

Motion passed unanimously.

2. MINOR SUBDIVISION

A. Public Hearing for consideration to approve the Dixie Montessori Academy Minor Subdivision located at approximately 650 West 1100 North. Applicant: The Boyer Company, Mike Glauser

## **Background**

Drew Ellerman stated the applicant is requesting approval for the Dixie Montessori Academy Minor Subdivision, located at approximately 600 West 800 North. The applicant is wishing to split the present 30.261 acre parcel into two lots. Lot One (1) of the subdivision will be 10.326 acres and Lot Two (2) will be 19.935 acres in size. The applicant will then build a charter school named the Dixie Montessori Academy on Lot One (1), which is the northern parcel. The other parcel (Lot 2) will stay with the current owner and remain vacant until a future date.

The proposed minor subdivision is currently zoned Open Space (OS), with General Plan Land Use designations of Low Density Residential on the north end and Medium Density Residential on the southern end (the Mill Creek area running through the middle of the parcel, from east to west, is designated as Open Space).

The Dixie Montessori Academy will be purchasing the north lot, as stated above to build the charter school. This is what is driving this minor subdivision split. The south lot will hopefully be tied to future development within the SITLA owned property that it shares a westerly border with. This is important due to the lack of accessibility to the lot itself.

Staff has reviewed the requested proposal, and the proposed Dixie Montessori Academy Minor Subdivision, conforms to the intent of the General Plan and meets the standards as set forth in the subdivision ordinance of the city. Due to the use being proposed, traffic would need to be looked at and mitigated, if necessary.

## **Recommendation**

Staff recommends that the Planning Commission approve the Dixie Montessori Academy Minor Subdivision, based on the following findings and subject to the following conditions:

## **Findings**

1. The minor subdivision conforms to the land use designation as outlined in the General Plan for the proposed area.
2. That the minor subdivision conforms to the Washington City Subdivision Ordinance as outlined.

## **Conditions**

1. All improvements shall be completed or bonded for prior to recording the final plat.
2. A current title report policy shall be submitted prior to recording the final plat.
3. Any referenced control monuments related to this subdivision shall be in place prior to recordation of the final plat. A stamped and signed letter from a professional land surveyor licensed in the state of Utah that verifies that the referenced control monuments are in place shall be submitted to the Community Development Department for filing prior to plat recordation.

4. That a post maintenance agreement be recorded prior to the recording of the final plat.
5. A final drainage study and grading and drainage plan shall be submitted for review and approval prior to moving dirt. Development of the site shall comply with the recommendations of the geotechnical study and drainage study, and improvements for drainage and detention shall be approved by the Public Works Department.
6. A final geotechnical study shall be submitted to the City for review and approval. All recommendations of the geotechnical study shall be adhered to.
7. Construction drawings shall adequately address prevention of nuisance storm water drainage across the lots. If retaining walls are utilized to prevent cross-lot drainage, the developer shall be responsible for installing said retaining walls.
8. Any required landscaping and fencing shall be installed prior to the occupancy of the buildings that will be constructed along the landscaped and fenced areas.
9. If a traffic study is deemed to be necessary by the Public Works Department, one shall be submitted for review and approval, prior to any site work or any building permits approved and issued.

Drew Ellerman stated that at about 5:10 a letter was received from the Boyer Company that they are withdrawing but the property owner still wants to continue with the Minor Subdivision application. The Dixie Montessori Academy will be moving to another area. (He read the letter) Mr. Ellerman stated he would revise his report to refer to the Minor Subdivision only and the name will be determined at a later time. The map showing the division is the same. Lot 1 low density to the north and lot 2 is medium density to the south according to the General Plan. Lot 2 is being looked at by the Henry Walker project. Staff will determine which of the conditions will be required.

Commissioner Schofield asked for clarification of the letter.

Mr. Ellerman stated he didn't have any prior conversation per to the letter. He was handed the letter tonight. He stated he doesn't know where they are going.

Commissioner Schofield asked about the 10 acres and the difference of the discussion of the 5 acres.

Mr. Ellerman stated there is usable and unusable acreage because of the slopes.

Robert Jensen stated he is the Attorney and the son of the applicant. Mr. Jensen stated he has been in contact with the Boyer Company and has read the minutes from the last meeting involved with the Minor Subdivision on November 20th. Paul Jensen is the owner of the property and has owned it for 45 years. Because of the ravine it is difficult to develop because of the slopes and is difficult to market. Henry Walker may be interested in some of the property. The issue tonight is just to divide the property and nothing more than just drawing a line to divide the property. He stated it is difficult to get to both properties on the same road. The last buyer could not get financing because it didn't have access to both properties.

The use and traffic, safety and development are not an issue tonight because it is not known tonight what will be developed. The two parcels are not marketable because they can't be developed in unison. He asked that they address just the division of the property and nothing else. The previous request was represented as two issues the division of the property and the Montessori Academy.

He stated there is a discrepancy with the definition of the Subdivision Ordinance 10 1 2 makes reference to what is required for submittal, conceptual plan and legal description is what it requires. In the definition section the purpose is to address future sale of the property. The code states "future sale of the property" and that is inappropriate purpose for a minor subdivision. The Minor subdivision code and what is expected is what they are here for tonight. Title 10 3 5 Modification of requirements in the city code is the poster child for what they are looking for. The size of the tract is roughly a total of 30 acres, about 10 acres to the north and 20 acres to the south. With lot 1 there is only about 5 to 6 acres that is usable then drops off. Due to the topography the condition and nature of the adjoining areas, there isn't a way to join the property and then the existence of other unusual physical conditions. That would be the definition of this property because of the slopes and it is a plateau. Lastly he stated there isn't any other area in Washington City that is comparable because of its location and topography. He asked the commission to look at this and the hardship it is to sell and develop the parcel. The north end wouldn't likely be developed the same as the south. This doesn't meet the intent of 10 30 5 ordinance. There are two avenues one is through the Minor Subdivision and to modify this to handle the hardship of this property. City staff has found on November 20th and tonight that this meets the requirements for a Minor Subdivision.

He stated another thing to look at is how would a Judge look at this? What interest does the city need to protect? A Judge would look at the facts and laws. Legally what should the city look at? A Judge would also look at the safety issue and recording this with an imaginary line there would not be the safety issue to protect. The safety issue should be done in the future not now. State law, the State Constitution even the United States Constitution protects the property owner. The Constitution states that no person should be deprived of life, liberty or property without the due process of law, nor shall private property be taken for public use without just compensation. Today is just to draw an imaginary line down the ravine to be recorded and there isn't a good reason to keep the parcel together. The Jensen's have paid the County taxes. He stated if the commission denies this, the city is controlling the property. He said he respects the property owners in the area and the citizens should be heard but to consider this request.

Commissioner Schofield stated to the public that this is for a minor subdivision and wanted to inform the public that first in normal circumstances if this came in under Mr. Jensen on November 20th it probably would have not had the issues that this has brought. The Boyer Company brought to us the plan for the Academy. He stated property owners have their own rights, as does the citizen living in the area. If this was denied and the applicant wanted to appeal it would have to go to District Court. Because of the change from the Montessori Academy and the current request it changes the dynamic. The State law allows for Public Charter Schools without the public knowledge or consent and if Mr. Jensen would have come and asked on November 20th it probably would have passed as a Minor Subdivision but the Dixie Montessori was upfront and wanted the information to be presented to the public.

This involved 5 to 7 acres with 410 students with the ability to go up to 1,000 students. If there had not been a traffic study the school could have come in. An elementary school requires a minimum of 12 to 13 acres for K through 5. An Intermediate School is 15 plus acres and a High School/Middle School combined are 55 acres. The Boyer Company set themselves up by showing us what they planned to do. He encouraged the citizens to contact legislators to change the law regarding Charter Schools. He stated he spoke with Mr. Burgeson today regarding another location for a school and stated they plan where schools can go and work with cities. Lately the city has worked with the SITLA in Sienna Hills to change where a school was going to be located because it didn't fit. He stated the Planning Commissioner tries to do the best for the city. The City Council has the right to change the vote from what the Planning Commission voted on, but it isn't any less important than the Planning Commission's recommendation. He encouraged the Jensen's not to sell the property to the School if the Planning Commission approved the Minor Subdivision because the property owners have objected to this for safety reasons. He stated the School District has no interest in building a school at this location. He stated this is a due process with each agenda item and to address the items.

Commissioner Papa stated he appreciates Mr. Jensen for his explanation and information.

Commissioner Shepherd asked Mr. Ellerman if they deny this does the owner have to wait a certain amount of time before they can come back and apply for a lot split again.

Mr. Ellerman stated there isn't a time frame to come back with another application.

Commissioner Schofield asked why Commissioner Shepherd asked the question.

Commissioner Shepherd answered that because of what has happened in the past and wants to know what will be coming in the future. She stated that she doesn't agree that the property couldn't be sold if they deny this tonight. They can sell it to Henry Walker and if they want to sell it to them they could come in then to request the Minor Subdivision. Going forward she wants to know the purposed use of the property. She stated her concern is that they were willing to sell it to the academy and could go back into contract with them again.

Mr. Ellerman stated they have to consider the selling point. This has been on the market for years and from time to time people have come in to see what they can do. For right now there isn't an access to both parcels. He stated it is zoned open space now and a school can go anywhere in the city. He stated to be fair we would have to hold hostage every subdivision request because there could be a school that could go in.

Commissioner Williams stated he is bothered by the letter, and if the letter is true. They could go back into contract and because the State would allow for the Montessori Academy it could come back. The paper stated they will build by August but didn't state where.

Mr. Jensen stated he appreciates the question of what is going in. He stated he didn't know if the letter is true and he stated that Commissioner Schofield made a comment that it would be

disingenuous if they sell it back to the Academy. The contract is no longer and the school has stated they are going to another location but if there is another offer and because they want to sell the property Washington City codes addresses this. The code makes it clear that the city doesn't control the use. Today they are asking for an imaginary line to divide the parcel. He asked the commission to consider if it were their property and the code states they could do this what would they do? The code states for future sale and he doesn't know what the future use is going to be. He stated it is inappropriate and unfair per the law to deny the Minor Subdivision due to the previous request. He stated he appreciates the concerns but they are out of contract and there isn't any promise that they could go back in contract.

Commissioner Williams stated when he was in the 11th grade his Dad had an office and one day he walked into his Dad's dental office and his Dad was upset because people owed him money and was stressed. His Dad said reputation is everything. He asked Mr. Jensen if his Dad is selling to the Montessori Academy.

Mr. Jensen stated no it is not in contact today and they are going to another location. The issue is what they are entitled to do under the city code.

Commissioner Schofield stated that first he has had many conversations with individuals throughout the State of Utah and his belief is that they did the right thing when they denied the Minor Subdivision. Second he stated he disagrees with the comment about courts and property rights but they are held to a certain standard of what they can and cannot do. He said that by going forward tonight he can't image that Mr. Jensen would agree to have the Montessori Academy come in.

Commissioner Schofield opened the public hearing. He encouraged the public to address the request and not focus on the Montessori Academy it is going elsewhere.

Gary Davis stated he lives on Fairway Drive he stated he doesn't know Mr. Jensen and is concerned that if this is approved they could sell it to a school again. He asked Mr. Jensen if he would submit in writing that they wouldn't do a school. He stated it isn't just Mr. Jensen's property rights it is the people living there that have rights as well.

Commissioner Schofield asked Mr. Davis if he would be in favor of 6 to 8 custom built homes.

Mr. Davis stated he is in favor of homes.

Attorney Jeff Starkey stated they need to make sure they go by the code and what the applicant is here for and any letters or correspondence needs to be shared with the applicant.

Commissioner Schofield stated unless the property has grown in size from November 20th to tonight his vote for the Montessori Academy is the same. The letters submitted are regarding the Montessori Academy.

Jan Hoelterling stated he lives at 766 Quail Ridge Drive he stated the property is unique and fails to see what has changed and now he wants to have the city give him permission to do

what they want. The applicant stated the property is not sellable but it may just not be what the applicant wants to sell for. He stated that he could get all the surrounding property owners together to purchase this they couldn't buy it at the price they want. This isn't about property rights it is about making someone rich. He appreciates the commissions concern. He stated he disagrees with staff that this can't sell and develop the property as it is. He stated he doesn't know that the letter can be trusted and has any legal meaning. He stated if he was the property owner and this got approved he would go to the Montessori school and sell it to them.

Commissioner Schofield asked if he was the property owner he would go to the Montessori Academy and go back into contract. He stated he knows Mr. Jensen's son and his firm and wonders if this is something that he feels the Jensen's would do. He stated they would follow the law.

Mr. Hoelterling stated he wouldn't do it but Mr. Jensen stated he wanted to sell and would not concede to not selling to the Montessori Academy. He stated he opposes this request.

Len Trujillo stated he lives in the area and they could sell the property tomorrow and they could sell it back to the school. He believes that the property is sellable. He opposes this and doesn't see the urgency.

Jason Valez stated the commission doesn't act in a vacuum and doesn't think the letter is authentic being received at the last minute. He stated Mr. Starkey has said that schools can go wherever they want. He stated the city does have control due to traffic safety. He stated he appreciates the commissioners and doesn't want the academy going in this location. The vote needs to be taken so it can be taken to the State.

Commissioner Smith stated tonight, the public hearing is for the Minor Subdivision only and has nothing to do with the school.

Mr. Valez stated it came before as the school. This is an emergency basis he wants the vote on the Montessori Academy.

Commissioner Smith asked staff what the application is for.

Mr. Ellerman stated it was for a Minor Subdivision and has never been for or against the school. The plan showed the school but it has always been for a Minor Subdivision.

Commissioner Schofield stated the denial was for the Minor Subdivision because of the use. The denial was for safety and traffic issues because of the school. He stated Commissioner Smith is correct this is for a Minor Subdivision only tonight. The Boyer Company was upfront with the City. He stated that if this weren't about the Montessori Academy this would be a minuet issue. The schools have to comply with safety with the city. He said he didn't know if the letter was

true but will take it at face value. He stated it would be very egregious if they sell the property to the Montessori Academy. He stated there are written rules and unwritten rules and he values his reputation and they need to be careful on doing the right thing. He stated they need to stay with what is being requested for a Minor Subdivision and not have the Montessori Academy be considered.

Mr. Valez asked if there is a record for denial from the Commissioners to take to the State. He stated the planning department has been promoting the Montessori Academy. He asked for clarification of the letter and the status of the Boyer Company.

Mr. Ellerman stated don't put words in his mouth, he hasn't been for or against the school.

Commissioner Schofield stated the Boyer Company is yielding to Robert Jensen who represents the owner. He stated Mr. Ellerman is just doing his job.

Mr. Valdez stated the reason they are here tonight is because of the Montessori Academy and this is not just about the Minor Subdivision. . He stated the code requires two accesses. He stated he didn't get notice and a lot of people didn't get notice, which is another irregularity. He stated the Boyer Company isn't here to assure us that they aren't going to bring in the school at this location. He stated the Jensen's could sell to another school tomorrow and is not being prejudiced by the vote on November 20th. He stated the Montessori Academy is still advertising that they will be coming to the Green Springs area.

Commissioner Schofield stated it is a regular course of business but they do their due diligence. He stated he realizes this is an unusual piece of property and when things come to them it is a matter of routine. They do consider access, safety and design. He stated Mr. Valdez has valid points.

Randy Lamoreaux stated if he was Mr. Jensen he wouldn't sell the property to the Montessori Academy but Mr. Jensen should stand and state he wouldn't. It would be very disingenuous for him to do that. There is a difference in what they have the right to do. But doing what is right is some times different. The right thing would be to condition this to not allow the school to come in this location. If the Montessori school comes in the city shouldn't blame the State law. He would want Mr. Jensen to commit to not sell to the school. The letter rings of bogus to him.

David Westman stated the commission is the Land Use body and EPA has guidelines and specific to school sightings. This parcel is too small due to safety emergency issues for evacuation. In 1976 National Environmental Policy Act regarding public money needs to go through the process that takes safety in consideration.

Harland Vance stated he is skeptical that the meeting was rushed then the Boyer Company is pulling out and there aren't any representatives from the Montessori Academy, now Mr. Jensen wants to move on this after all these years.



Gary Johnson lives in the Links he stated he would like to complement the two commissioners and the comments on trust. The first stop in land use is here with the commission. This is like the pig in a blanket/poke. He stated what is being conveyed is the name from the Dixie

Montessori Academy to an unnamed subdivision. He asked what did the commission deny last time if it was a minor subdivision? He urged them to stick to the decision they originally made. The denial was made on the use. He stated Mr. Jensen seems like a nice person but he may sell to someone else and then they won't know what will come in.

John Anderson lives in the Links stated that it is their responsibility to decide to honor the General Plan guidelines and the open space preclude the school with 800 to 1000 students in a subdivision.

Marilyn Whyte stated she lives on Fairway Drive. She stated she wanted to thank Commissioners Shepherd and Williams for their comments. She wanted assurance that the land will be used properly and would like the commissioners to deny this and in time they will know what the Montessori Academy's intent is. Time takes care of many things and would like the commissioners to take their time but to deny this.

Thad Seegmiller stated his concern is with the State Statute and the city ordinance regarding the commission and how Washington City has done this. The authority of the commissioner title 10 8 section 302 Planning Commissioners authority, power and duties that the commission makes recommendation to the legislative body the City Council. His concern is that the Planning Commission was to make the approval and asked if they have the right to continue because there was a recommendation to City Council. The commission is a recommending body not a final decision body.

Commissioner Schofield stated it wasn't the fault of the commission that this came back it was staff and the attorney that brought this back to them.

Attorney Jeff Starkey stated it was made clear that the city ordinance read was opposite to what happened and wasn't the fault of the commission. The reason for bringing it back to the commission is because the ordinance read it was the Commission that would be the approval body. Staff has taken responsibility for the misunderstanding. Councilman Seegmiller stated the State Legislation states under that the Land Use Authority, the Planning Commission shall make a recommendation to the legislative body. He stated he doesn't know why or when the ordinance gave the Planning Commission the approval authority but the code is what it states.

Commissioner Schofield stated that City Council did give the Planning Commission the approval body for the Conditional Use Permits.

Councilman Seegmiller stated Conditional Use Permits and Minor Subdivision is like apple and oranges.

Commissioner Schofield stated they have been instructed that they are the approval body for Minor Subdivisions.

Councilman Seegmiller stated in title 10 8 302 State Utah Municipal Code under Planning Commission powers and duties it states they shall make a recommendation to the legislative body and 305 references required to conform to municipality land use ordinances; exceptions school most land use are made as recommendation to City Council.

Attorney Starkey stated the Planning Commission is the recommending body but conditional use permits and Minor Subdivision ordinance put the Planning Commission as the approval body.

Councilman Seegmiller stated in subsection 5 states under application process.

Attorney Jeff Starkey stated it defines them as the Land Use Authority over Minor Subdivisions. He stated they are using the subdivision ordinance for Minor Subdivision authority.

Councilman Seegmiller stated he is referring to the Planning Commission Ordinance and there is some confusion between the city ordinances and the subdivision ordinance is what is being referred tonight as to how to proceed with this Minor Subdivision request. He stated he would leave it up to the City Attorney.

Attorney Starkey stated State Law does state authority. He stated he doesn't feel anything has been done inappropriately, with Minor Subdivisions there has been a process that has been done as it has been done in the past. Minor Subdivision in the past and have been a very simple process and has never been challenged.

Commissioner Schofield stated he would be okay with this going to City Council for approval.

Attorney Starkey stated that if someone didn't get a notice they should have and could challenge it.

Commissioner Papa motioned to close the public hearing.  
Commissioner Shepherd seconded the motion.  
Motion passed unanimously.

Mr. Jensen stated the question is what is the commissions responsibility and if they are going to change the code or the process. He asked if they have approved a Minor Subdivision without knowing what was going in. The comments that have been made on use not what the code states for a Minor Subdivision. The intent is to divide property. He stated the letter was the last thing they wanted to see and they want to sell the property. He stated he feels this is being used tonight and the use shouldn't be considered tonight. The application was made for a Minor Subdivision. He stated Commissioner Schofield stated the Minor Subdivision is simple. He stated it was stated that if they approve this Minor Subdivision the city loses control but it isn't true they would have to approve the use. He stated Gary Davis asked for a legal document to not have any school. They have been accused of being disingenuous and not trustworthy. It has

been implied that they just want to sell the property, and not do the right thing, they could sell then it could end up going to the Montessori school that isn't what they are responsible for. He stated he would like the accommodations to be reasonable. In Title 10 3 5 the city is allowed conditions to follow the code and that staff have already indicated that it follows the code. He stated he appreciates the concerns and this is hard but it is simple.

Neal Walter represents the Jensen Family. He stated he has been in this process since August to work on the Subdivision process.

Commissioner Schofield asked for clarification of Mr. Walter's involvement with the Jensen's and the Boyer Company and if he represents both.

Mr. Walter stated the letter was an effort to inform the Planning Commission that they wanted the property owner to go through the process on his own. As this became an issue of use verses the Minor Subdivision. It was being confused and the contention with the surrounding property owners. The applicant The Boyer Company withdrew and to allow the Jensen's to proceed.

Commissioner Schofield asked what is their intent for the property.

Mr. Walter stated that isn't his duty to determine use, it is to help with the transaction and application process.

Commissioner Schofield asked if he would agree that real estate agents do help with use.

Mr. Walter stated some do but it isn't his job to determine use. He works with individuals to market the property.

Commissioner Schofield asked Mr. Walter what was the intent when he met with his client on this property.

Mr. Walter stated he doesn't determine use. He stated it wasn't up to him to place a school there. He stated he helped them with the process and was generous with the information given to the city. The reason for this special meeting is the Planning Commission made a recommendation to not approve to City Council and while waiting for that meeting an error was discovered that City Council was not the approval body. At the City Council meeting that this was scheduled for the agenda was tabled because of flooding at city hall. Then this meeting was scheduled so then the requested to come back instead of the school the seller which is the property owner is requesting his own approval for a Minor Subdivision. There is not a predetermined process for the use.

Mr. Jensen stated with the question asked to Mr. Walter what is the use? He stated the Planning Commission has a simple task and it is a hard decision to not be moved by the citizens but the city code does not prevent the property owner the right to divide his property.

Commissioner Schofield stated he isn't politically correct and is more direct. He stated to Mr. Jensen that he isn't persuaded by emotion he considers the facts. He stated under normal

circumstances a Minor Subdivision is a simple process but this is not a normal request. There are ordinances and codes that have to be followed and this is unusual by the way it went through the process by them recommending a denial to City Council. Then moved back to them because the

City Attorney determined that the Planning Commission is the approval body for Minor Subdivisions. The Boyer letter is last minute and he is looking at it as they pulled out and a decision has already been made. He stated that he didn't allude to the fact that they would sell back to the Boyer Company he stated that he speaks as a citizen of Washington City and it would be disingenuous if they did sell it to the Boyer Company for the school.

He stated they aren't here to prevent them from developing their property they are here to help develop to what is the best use for Washington City. Based on the fact of what has been said he finds it difficult to not consider why they came here tonight and from what was brought to them before to what they are to consider tonight. He feels it now has changed at the last minute. He stated there is a fine line to what is right for both sides. He stated he encourages them to come back with another application to separate the owner of the property and the applicant.

Commissioner Papa stated this should have come from the Jensen's in the first place. He stated if he was going to buy a car the dealer doesn't determine the use. He stated they need to consider what is before them and the fact that this is a lot split and not the emotions of what has been said before tonight.

Commissioner Schofield said this is a Minor Subdivision tonight and it is different from what they were planning to come to address tonight in the first place. They did not go to the Boyer Company to submit a letter and have the Mr. Jensen represent them self.

Commissioner Smith stated if they were continuing the meeting would they change their mind? In his opinion they have mitigated the problem of traffic and safety and it no longer has merit to deny this. The General Plan and topography has already divided this and to build a bridge would not be feasible. He stated it doesn't make sense to deny this because of what someone said before. What is before them is a lot split and the general plan allows this and as a body of the Planning Commission it is to determine if this fits the general plan and the ordinances.

Commissioner Schofield stated it is incorrect to change tonight what was presented before.

Commissioner Smith asked if the Dixie Montessori people said they aren't going there would it change his mind? Commissioner Smith stated he does take the letter a face value.

Commissioner Schofield stated no he wouldn't change his mind

Commissioner Williams stated he has done real estate for 27 years and facts are important. The letter and the newspaper article today, does not make him feel at ease. The fact is that the agenda is for the Dixie Montessori Academy and that is what they were here to address. He stated he respects the Jensen's but has to many questions.

Mr. Walter stated there is a statute structured for the historic history between city and schools and the animosity that exists in allowing schools. He stated it is unfair that the school showed its cards. It is his fault that he came to the city, and this was his recommendation to be transparent with the city. This property isn't his first choice for the school. This is an example why there is a State Statute for Colleges, State buildings, Federal buildings and schools. He stated those that read and observe the minutes would seek an alternative process they will follow the process to the detriment of the city.

Their intent is to be open in every way to avoid the historical contention towards Colleges, State, Federal Buildings and Schools. This is a misconstrued notion of what is before them tonight with a subdivision plat.

Commissioner Schofield stated normally he doesn't let people just jump up and speak out. He had him until he said they would seek an alternative process. They have the right to do this but to be careful with the interpretation of what is said, and that they are asserting their authority. He stated for the record they don't have any say as to where Colleges, State, Federal Buildings and schools go. He stated the Fair Housing Act is another thing they are limited on having any say. He stated he is an advocate of property rights, but when things come that are out of character and this is different from what was before them previously. The property owner has the right to come again and apply for this under normal circumstances.

Commissioner Shepherd stated that she can't vote based on the facts because she doesn't know the facts. The letter stated they are out of contract but that doesn't mean they can't go back into contract with them. Mr. Jensen stated that he thinks the Commissioners are taking the letter in another direction, but she thinks that the letter is trying to get the commissioners to take the project in a different direction.. She stated that it has been mentioned that the commissioners should vote in the same way every time to be consistent, but if she voted that way there would be no reason for her to be here to vote because she could just vote that way that staff recommends every time. This has been brought to them both times in an odd way. She stated her children go to charter schools and is an advocate of charter schools but her vote will remain the same. She stated that there is no harm done to the owner tonight if they deny this request, unless they have a buyer ready to buy the property in the next two weeks and they have already stated that they do not have a buyer ready. She appreciates the transparency.

Commissioner Williams stated his wife works for the school district. He stated the location is not a good one. He stated he is for smart growth and appreciates the information given.

Commissioner Papa stated he depends on a level of inspiration. He stated he couldn't allow himself to depend only on facts there needs to be a level of trust. People need to move on after this stressful meeting and live with the decision made what ever it is. He stated desires dictate priorities, priorities shape our choices and our choices determine our actions our actions based on what they are shape our individual community and character.

Commissioner Schofield stated this is a stressful meeting and some times making right decisions are difficult.

**Commissioner Shepherd motioned to deny approval as stated on the agenda for the Dixie Minor Academy Minor Subdivision located at approximately 650 West 1100 North based on the regularity of the process, last minute changes and the property owner can reapply on his own application.**

**Commissioner Williams seconded the motion.**

**Commissioner Papa Nay.**

**Commissioner Smith Nay.**

**Commissioner Williams Aye.**

**Commissioner Shepherd Aye.**

**Commissioner Schofield Aye.**

**Motion passed with a 3-2 vote for denial.**


Commissioner Smith motioned to adjourn the Planning Commissioner meeting.

Commissioner Shepherd seconded the motion.

Motion passed unanimously.

Meeting adjourned: 9:03 PM

Washington City

Signed by: 

Rick Schofield, Chairman

Attested to: 

Kathy Spring, Zoning Technician